

REMARKS

The Applicants appreciate the thoroughness with which the subject application has been examined and the allowance of claims 23, 48 and 49. The Applicants also appreciate the indication of allowable subject matter in claims 2, 9-12, 14, 18, 28, 30-38, 41 and 46. By this Amendment, claims 1, 20, 24, 25 and 42 have been amended to overcome the Examiner's rejections and objections and more concisely claim and describe the present invention. Claims 1-51 remain in the application for reconsideration by the Examiner. The Examiner's allowance of all pending claims is earnestly solicited.

MATTERS RELATED TO THE SPECIFICATION

The Applicants have identified a typographical informality in the specification paragraph [0025] and propose to correct that informality as indicated above in the marked-up specification paragraph.

MATTERS RELATED TO THE CLAIMS

Examiner Douglas has rejected claims 1, 3-8, 13, 15-17, 19-22, 24-27, 29, 39, 40, 42-45, and 47 under Section 102(b) as anticipated by Parker (5,626,170).

To further define the invention over the cited art, the Applicants have amended claim 1 as set forth above in the marked-up version of the claim. In particular, the Applicants have claimed, "supplying the new fluid into the system by activating a pump in response to the used fluid in the first chamber." Support for this change can be found in paragraph [0024].

Parker discloses drain and supply tanks 11 and 12 and fluid level gauges to indicate the quantity of fluid stored in either tank. According to Parker, "the operator may visually determine when a certain amount of fluid has been withdrawn from or injected into the transmission by observing the level of fluid stored in the respective tank." Parker further discloses the use of manually adjustable flow control valves 26 and 27. "As such, the respective flow control valves may be manually adjusted to either increase or decrease the rate at which used fluid is withdrawn from or injected into the transmission thereby providing for the precise matching of flow rates of the used fluid from an unused fluid to the transmission regardless of the internal flow resistances

within a particular automatic transmission.” Thus, the Applicants’ activating a pump in response to the used fluid, to supply new fluid into the system is clearly distinguished from Parker, as Parker neither discloses nor suggests such a technique.

Claims 2, 9-12, and 14 depending either directly or indirectly from claim 1 have been objected to but would be allowable if rewritten in independent form, including all of the limitations of the base claim and any intervening claims. While the Applicants appreciate the indication of allowable subject matter in these claims, the Applicants respectfully submit that these claims are currently in condition for allowance based on the amendments to claim 1 from which they depend when considered in view of the remarks concerning the cited art. Thus, rewriting of these claims in independent form is held in abeyance pending the Examiner’s reconsideration of amended claim 1 from which they depend.

As to rejected claims 3-8, 13 and 15-19, depending either directly or indirectly from claim 1, the Applicants contend that each of these dependent claims include elements that further distinguish the invention over the art of record.

Independent claim 20, rejected under Parker, has been amended to recite, “in response to the used fluid in the first chamber as sensed by a fluid sensor, pumping the new fluid into the system.” An exemplary volume sensor mentioned in the specification comprises the float switches 50 and/or 52. Because Parker lacks any disclosure of a fluid sensor for sensing the used fluid in the first chamber, amended claim 20 is distinguished therefrom. Also, Parker does not disclose or suggest, “causing the used fluid to flow into a first chamber;” and “in response to the used fluid in the first chamber, pumping the used fluid from the first chamber into a waste chamber.” Parker discloses only the drain tank 11 as receiving the used fluid.

Dependent claims 21 and 22 depending from claim 20 and rejected under Parker, are believed to further distinguish the invention over the art of record. In particular, dependent claim 22 further comprises, “pumping the new fluid into a second chamber and in response to the new fluid in the second chamber, pumping the new fluid from the second chamber into the vehicle.” These elements are not disclosed nor fairly suggested by Parker.

Independent claim 24, rejected on the basis of Parker, has been revised as set forth above. In particular, the second paragraph of claim 24 now reads, “in response to the used fluid in the first chamber as sensed by a fluid sensing element, infusing the new fluid into the system

by operation of an electrically powered pumping mechanism.” Parker does not disclose such a step of infusing the new fluid. Instead, Parker discloses, “on one of the vertical side walls of the respective tanks 11 and 12 are a plurality of horizontal indicia at spaced elevations along respective vertical windows to define respective fluid level gauges to indicate the quantity of fluid stored in either tank. As such, the operator may visually determine when a certain amount of fluid has been withdrawn from or injected into the transmission by observing the level of fluid stored in the respective tank.”

Independent claim 25, also rejected under Parker, has been amended to now read in part, “a volume sensing element for determining a volume of the used fluid received from the system; and a first pump responsive to the volume sensing element for supplying a substantially equivalent volume of the new fluid into the system through the second fluid flow path. Parker does not disclose nor suggest use of a volume sensing element as set forth in amended claim 25 and therefore the claim is respectfully considered to be allowable over Parker.

Rejected dependent claims 26, 27, 29, 39 and 40, depending directly or indirectly from independent amended claim 25, include elements that further distinguish the invention over the art of record. It is respectfully submitted that these rejected dependent claims are now in condition for allowance.

Objected to claims 28, 30-38, and 41 (depending directly or indirectly from independent amended 25) remain in their original form. Rewriting of these claims in independent form, as suggested by Examiner Douglas, is held in abeyance until the Examiner reconsiders the rejection of amended independent claim 25 from which they depend.

Rejected independent apparatus claim 42 has been amended by adding a “a fluid sensing switch in the first chamber,” and by amending the last paragraph to read, “first and second pumps operative in response to the fluid sensing switch in the first chamber, the first pump for withdrawing the used fluid from the first chamber and for supplying the used fluid into the waste fluid tank, the second pump for infusing the new fluid into the system through the second fluid flow path.” Amended claim 42 is considered allowable over the art in that Parker does not disclose nor suggest the use of a fluid sensing switch in the first chamber, with the first and the second pumps operative in response to the fluid sensing switch. Instead, as described above in

conjunction with the discussion of claim 24, Parker discloses a manual process wherein the operator visually determines fluid levels and adjusts valves accordingly.

Dependent claims 43-45 and 47 depend either directly or indirectly from independent claim 42. It is respectfully submitted that each of these dependent claims further distinguishes the invention over the art of record in light of their dependence from amended claim 42 and the limitations set forth in these claims.

The indication of allowable subject matter in objected to claim 46 is appreciated. However, at this point in the prosecution process, the Applicants have elected to hold the rewriting of objected to claim 46 in abeyance until the Examiner has responded to the amendments made to independent claim 42 from which claim 46 indirectly depends.

The Applicants have added new claim 50 as set forth above. Parker does not disclose the creation of a controlled new fluid volume from which new fluid is supplied into the system. Instead, Parker's operator manually controls the flow rate of the fluid withdrawn from the vehicle and the fluid supplied to the vehicle to either increase or decrease the rate at which used fluid is withdrawn from or injected into the transmission. See Parker's column 4, beginning at line 35 and continuing through line 45.

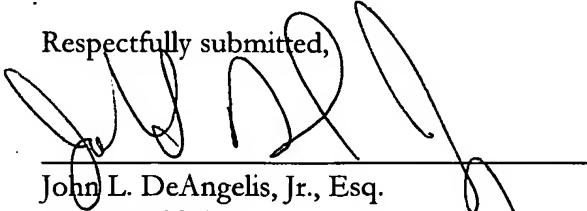
New claim 51 has been added as set forth above. This claim includes certain of the elements set forth in allowed claim 23, i.e., "storing the new fluid for infusing into the system in a tank; causing the used fluid evacuating from the system to flow through a tube disposed in the tank, such that heat from the used fluid is transferred to the new fluid, wherein the used fluid flows into a first chamber; and in response to the used fluid in the first chamber, supplying the new fluid from the tank into the system." There is no such disclosure or suggestion in Parker relative to the elements of new claim 51.

It is respectfully requested that the Examiner consider and allow new claims 50 and 51.

The Applicants have attempted to comply with all of the points raised in the Office Action and it is believed that the remaining claims in the application, i.e., 1-51, are now in condition for allowance. In view of the foregoing amendments and discussion, it is requested that the Examiner's claim rejections have been overcome. It is respectfully requested that the Examiner reconsider these rejections and objections and issue a Notice of Allowance for all claims pending in the application.

If a telephone conference will assist in clarifying or expediting this Amendment or the claim changes made herein, Examiner Douglas is invited to contact the undersigned at the telephone number below.

Respectfully submitted,

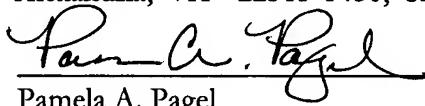

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CERTIFICATE OF MAILING

I HEREBY CERTIFY that the foregoing Amendment is being deposited with the United States Postal Service as first class mail in an envelope addressed to Mail Stop Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 27th day of August, 2004.


Pamela A. Pagel